THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.4779 of 2006

Between:

D.Chennakesavulu and another … Petitioners

And

The Special Officer and Competent

Authority, Urban Land Ceiling, Guntur

And another

…Respondents

ORDER:

Petitioners seek writ of mandamus directing the respondents to consider the representation dated 27.12.2005 in file No.ULC No.721/76 as per the instructions/guidelines issued by the Government of India as per letter No.3/1/97UCU(2) dt.21.5.1997 and further declare that the action of the respondents in not considering the said representation dated 27.12.2005 as illegal and arbitrary.

The case of the petitioner is that one S.Basavaiah filed declaration under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') in ULC No.721/76 before the Special Officer and Competent Authority, Urban Land Ceiling, Guntur, in respect of the lands in D.Nos.497 and 498 situated at Guntur, which are agricultural lands. It is stated that after enquiry the family of the declarant is entitled to hold 2000 sq.meters and the rest of the land is declared as excess and accordingly the respondents have taken the excess vacant land.

It is the case of the petitioners that they have purchased land to an extent of Ac.1.89 cents and 0.40 cents respectively from out of the property bearing D.Nos.497 and 498 vide agreement of sale and O.S.No.354 of 1984 was filed which ended in passing of compromise decree dated 17.6.1988. It is stated that the said land, which is purchased by the petitioners, is also declared as surplus land and sought to be taken by the first respondent. It is also contended that the major sons and daughters of the declarant are not given separate holdings as per the Government of India circular dated 21.5.1997 as is evident from the draft notification prepared by the competent authority. Accordingly, the petitioners made a representation on 27.12.2005 before the first respondent and the petitioners seek to issue writ of mandamus directing the first respondent to consider and dispose of the said representation as per instructions issued by the Government of India in letter No.3/1/97-UCU(2) dt.21.5.1997.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing on behalf of the respondents.

The learned Government Pleader for Revenue appearing on behalf of the respondents submits that all such cases have been filed from the Guntur area only so as to defeat the provisions of the Act and in the instant case absolutely no particulars have been furnished as to who are major sons and who are major daughter so as to enable the Special Officer and Competent Authority, Urban Land Ceiling, to

consider their cases as per the said circular instructions of the Government of India. It is further stated admittedly the so-called decree said to have been obtained by the petitioners, which is a compromise decree, and there is specific provision under Section 5 of the Act for transfer of any vacant land and any transfer made after the notified date is null and void.

It is stated that several writ petition have been disposed of by this Court directing the first respondent to consider and dispose of the said representation for giving certain holdings to major sons and daughters.

I am of the opinion if any holding is not given to any major sons and daughters, it is always open for them to file statutory appeal before the appellate authority under Section 33 of the Act. As several petitions are being filed within the purview of the Special Officer and Competent Authority under the Act, it is just and proper for the Government to suo motu enquire into the matters in respect of the orders passed by the first respondent pursuant to the directions of this Court to satisfy itself with regard to the genuineness or otherwise of the so-called major sons and daughters for getting benefit under the said circular of the Government of India. Accordingly, I do not see any merit in this writ petition.

The writ petition is accordingly dismissed with liberty to file statutory appeal before the appellate authority by the interested persons to get the benefit of the said instructions given by the Government of India. No order as to costs.

(V.ESWARAIAH, J.)

13.3.2006

kpr